

Critical phases and statutes applicable to:

Clerk of Court

13 Total Citations

A victim of crime shall be treated by agents of the State with dignity, respect and sensitivity during all phases of the criminal justice process.

Constitution of Maryland, Declaration of Rights, Article 47(a)

Definitions

7 Specific Statutory Provisions

Delinquent Acts

- **Definition of child respondent**

Criminal Procedure Article, § 11-101(a)&(b)

(a) In this title the following words have the meanings indicated.

(b) "Child respondent" means a person who:

- (1) in a petition filed in juvenile court, is alleged to have committed a delinquent act; or
 - (2) has committed a delinquent act.
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Monetary Damages -- Restitution

- **Definition of crime as it relates to restitution**

Criminal Procedure Article, § 11-601(d)

(d) (1) "Crime" means an act committed by a person in the State that is a crime under:

- (i) common law;
- (ii) § 109 of the Code of Public Local Laws of Caroline County;
- (iii) § 4-103 of the Code of Public Local Laws of Carroll County;
- (iv) § 8A-1 of the Code of Public Local Laws of Talbot County; or
- (v) except as provided in paragraph (2) of this subsection, the Annotated Code.

(2) "Crime" does not include a violation of the Transportation Article that is not punishable by a term of confinement.

- **Definition of judgment of restitution**

Criminal Procedure Article, § 11-601(g)

(g) "Judgment of restitution" means a direct order for payment of restitution or an order for payment of restitution that is a condition of probation in an order of probation.

- **Definition of victim as it relates to restitution**

Criminal Procedure Article, § 11-601(j)

(j) "Victim" means:

- (1) a person who suffers personal injury or property damage or loss as a direct result of a crime or delinquent act; or
 - (2) if the person is deceased, the personal representative of the estate of the person.
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Definitions

Monetary Damages -- Restitution

- ***Definition of restitution as money judgment***

Criminal Procedure Article, § 11-608

- (a) A judgment of restitution is a money judgment in favor of the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution.
- (b) The judgment of restitution may be enforced by the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution in the same manner as a money judgment in a civil action.
- (c) Except as otherwise expressly provided under Part I of this subtitle, a person, governmental unit, or third-party payor to whom a restitution obligor has been ordered to pay restitution has all the rights and obligations of a money judgment creditor under the Maryland Rules, including the obligation under Maryland Rule 2-626 or 3-626 on receiving all amounts due under the judgment to file a statement that the judgment has been satisfied.

- ***Definition of victim and victim's representative as it relates to restitution***

Criminal Procedure Article, § 11-621(d)&(e)

- (d) "Victim" means a person who suffers personal injury, death, or property loss as a direct result of crime.
 - (e) "Victim's representative" includes the personal representative of the estate of a deceased victim and a beneficiary under a wrongful death action.
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Sexual Assault/Prohibited Exposure

- ***Definition of victim as it relates to HIV exposure/testing***

Criminal Procedure Article, § 11-107(f) & (g)

- (f) (1) "Victim" means the victim of a prohibited exposure.
 - (2) "Victim" includes:
 - (i) a law enforcement officer who is exposed to HIV while acting in the performance of duty; and
 - (ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to HIV while acting in the performance of duty.
 - (iii) a forensic scientist, working under the direction of a law enforcement agency, who is exposed to HIV while acting in the performance of duty
 - (g) "Victim's representative" means:
 - (1) the parent of a victim who is a minor;
 - (2) the legal guardian of a victim; or
 - (3) the person authorized to give consent for the victim under § 5-605 of the Health-General Article.
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The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

5 Specific Statutory Provisions

Fair Treatment

- ***Guidelines - Definition of victim as it relates to fair treatment***

Criminal Procedure Article, § 11-1001(e)

(e) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as a result of a crime.

Notification

- ***Responsibility for processing notification request form - commitment, probation, appeal***

Criminal Procedure Article, § 11-104(f)

(f) If a victim or victim's representative has filed a notification request form under subsection (d) of this section, the clerk of the circuit court or juvenile court:

- (1) shall include a copy of the form with any commitment order or probation order that is passed; and
- (2) if an appeal is filed, shall send a copy of the form to the Attorney General and the court to which the case has been appealed.

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Privacy

- ***Limited access to court records in electronic form***

Maryland Rules 16-1008

- (a) (1) Subject to the conditions stated in this Rule, a court record that is kept in electronic form is open to inspection to the same extent that the record would be open to inspection in paper form.
- (2) Subject to the other provisions of this Rule and any other law or any administrative order of the Chief Judge of the Court of Appeals, a custodian, court, or other judicial agency, for the purpose of providing public access to court records in electronic form, is authorized but not required:
 - (A) to convert paper court records into electronic court records;
 - (B) to create new electronic records, databases, programs, or computer systems;
 - (C) to provide computer terminals or other equipment for use by the public;
 - (D) to create the ability to inspect or copy court records through remote access; or
 - (E) To convert, supplement, modify, or replace an existing electronic storage or retrieval system.
- (3) (A) Subject to the other provisions of this Rule, a custodian may limit access to court records in electronic form to the manner, form, and program that the electronic system used by the custodian, without modification, is capable of providing. If a custodian, court, or other judicial agency converts paper court records into electronic court records or otherwise creates new electronic records, databases, or computer systems, it shall, to the extent practicable, design those records, databases, or systems to facilitate access to court records that are open to inspection under the Rules in this Chapter.
- (B) (i) Subject to subsection (a)(3)(B)(ii) of this Rule and except for identifying information relating to law enforcement officers, other public officials or employees acting in their official capacity, and expert witnesses, a custodian shall prevent remote access to the name, address, telephone number, date of birth, e-mail address, and place of employment of a victim or nonparty witness in (1) a criminal action, (2) a juvenile delinquency action under Title 3, Subtitle 8A of the Courts Article, (3) an action under Title 4, Subtitle 5 of the Family Law Article (domestic violence), or (4) an action under Title 3, Subtitle 15 of the Courts Article (peace order).
- (ii) A person who files or otherwise causes to be placed in a court record identifying information relating to a witness shall give the custodian written notice whether the identifying information is not subject to remote access under subsection (a)(3)(B)(i) of this Rule. In the absence of written notice, a custodian is not liable for allowing remote access to the information.
- (4) Subject to subsection (a)(3)(B) of this Rule and procedures and conditions established by administrative order of the Chief Judge of the Court of Appeals, a person may view and copy electronic court records that are open to inspection under the Rules in this Chapter:
 - (A) At computer terminals that a court or other judicial agency makes available for public use at the court or other judicial agency; or
 - (B) by remote access that the court or other judicial agency makes available through dial-up modem, web site access, or other technology.
- (b) Any electronic access to a database of court records that is provided by a court or other judicial agency and is in effect on October 1, 2004 may continue in effect, subject to review by the Technology Oversight Board for consistency with the Rules in this Chapter. After review, the Board may make or direct any changes that it concludes are necessary to make the electronic access consistent with the Rules in this Chapter.
- (c) (1) A person who desires to obtain electronic access to or information from a database of court records

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Privacy

• Limited access to court records in electronic form

(Continued....)

Maryland Rules 16-1008

to which electronic access is not then immediately and automatically available shall submit to the Court Information Office a written application that describes the court records to which access is desired and the proposed method of achieving that access.

- (2) The Court Information Office shall review the application and may consult the Judicial Information Systems. Without undue delay and, unless impracticable, within 30 days after receipt of the application, the Court Information Office shall take one of the following actions:

(A) The Court Information Office shall approve the application if it determines that the application does not request access to court records not subject to inspection under the Rules in this Chapter and will not impose a significant fiscal, personnel, or operational burden on any court or judicial agency. The approval may be conditioned on the applicant's paying or reimbursing the court or agency for any additional expense that may be incurred in implementing the application.

(B) If the Court Information Office is unable to make the findings provided for in subsection

(c) (2) (A), it shall inform the applicant and:

(i) Deny the application;

(ii) Offer to confer with the applicant about amendments to the application that would meet the concerns of the Court Information Office; or

(iii) If the applicant requests, refer the application to the Technology Oversight Board for its review.

(C) If the application is referred to the Technology Oversight Board, the Board shall determine whether approval of the application would be likely to permit access to court records or information not subject to inspection under the Rules in this Chapter, create any undue burden on a court, other judicial agency, or the judicial system as a whole, or create undue disparity in the ability of other courts or judicial agencies to provide equivalent access to court records. In making those determinations, the Board shall consider, to the extent relevant:

(i) whether the data processing system, operational system, electronic filing system, or manual or electronic storage and retrieval system used by or planned for the court or judicial agency that maintains the records can currently provide the access requested in the manner requested and in conformance with Rules 16-1001 through 16-1007, and, if not, what changes or effort would be required to make those systems capable of providing that access;

(ii) any changes to the data processing, operational electronic filing, or storage or retrieval systems used by or planned for other courts or judicial agencies in the State that would be required in order to avoid undue disparity in the ability of those courts or agencies to provide equivalent access to court records maintained by them;

(iii) Any other fiscal, personnel, or operational impact of the proposed program on the court or judicial agency or on the State judicial system as a whole;

(iv) whether there is a substantial possibility that information retrieved through the program may be used for any fraudulent or other unlawful purpose or may result in the dissemination of inaccurate or misleading information concerning court records or individuals who are the subject of court records and, if so, whether there are any safeguards to prevent misuse of disseminated information and the dissemination of inaccurate or misleading information; and

(v) Any other consideration that the Technology Oversight Board finds relevant.

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Maryland Rules 16-1008

(Continued....)

(D) If, upon consideration of the factors set forth in subsection (c)(2)(C) of this Rule, the Technology Oversight Board concludes that the proposal would create (i) an undue fiscal, personnel, or operational burden on a court, other judicial agency, or the judicial system as a whole, or (ii) an undue disparity in the ability of other courts or judicial agencies to provide equivalent access to judicial records, the Board shall inform the Court Information Office and the applicant in writing of its conclusions. The Court Information Office and the applicant may then discuss amendments to the application to meet the concerns of the Board, including changes in the scope or method of the requested access and arrangements to bear directly or reimburse the appropriate agency for any expense that may be incurred in providing the requested access and meeting other conditions that may be attached to approval of the application. The applicant may amend the application to reflect any agreed changes. The application, as amended, shall be submitted to the Technology Oversight Board for further consideration.

Miscellaneous

- ***Receive help, care and support provided by the State***

Criminal Procedure Article, § 11-802

(a) The General Assembly finds:

- (1) that many innocent persons suffer personal physical or psychological injury or die because of crimes or delinquent acts or in their efforts to prevent them or apprehend persons committing or attempting to commit them;
- (2) that these persons or their dependents may as a result suffer disability, incur financial hardships, or become reliant on public assistance; and
- (3) that there is a need for government financial assistance for these victims.

(b) The policy of the State is that help, care, and support be provided by the State, as a matter of moral responsibility, for these victims.

- ***Applicability of guidelines***

Courts and Judicial Proceedings Article, § 3-8A-34

The guidelines provided under § 11-1003 of the Criminal Procedure Article apply to victims and witnesses of delinquent acts.

In order to preserve and protect a victim's right to justice, each victim of a crime shall have the rights outlined below during critical stages of the criminal justice process

Post-conviction/Post-disposition

1 Specific Statutory Provision

Monetary Damages -- Restitution

• ***Recording of restitution order as a civil judgment in Circuit Court***

Criminal Procedure Article, § 11-609

- (a) A judgment of restitution that a circuit court orders under Part I of this subtitle shall be recorded and indexed in the civil judgment index by the clerk of the circuit court as a money judgment as the Maryland Rules provide.
- (b) A judgment of restitution that is recorded and indexed in the civil judgment index as a money judgment under subsection (a) of this section:
 - (1) in the county of entry of the judgment, is a lien from the date of entry in the amount of the judgment on the restitution obligor's interest in land located in the county of the entry of the judgment; but
 - (2) in a county other than the county of entry of the judgment, is a lien from the date of recording in the amount of the judgment on the restitution obligor's interest in land located in that county.